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Message Text

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42
ACTION L-03

INFO OCT-01 EUR-25 ISO-00 SCA-01 SCS-03 NEA-14 DEAE-00

FBIE-00 CIAE-00 INR-10 NSAE-00 RSC-01 DRC-01 /059 W
---------- 028011
P R 151405Z MAY 74
FM AMEMBASSY ANKARA
TO SECSTATE WASHDC PRIORITY 4122
INFO AMCONSUL ISTANBUL
AMCONSUL ADANA
AMCONSUL IZMIR

C O N F I D E N T I A L ANKARA 3746

EO 11652 GDS
TAGS: CASC, TU
SUBJECT: WILLIAM HAYES CASE

REF: A) STATE 098820; B) ANKARA 3687; C) ANKARA 3227;
D) ANKARA 3457

1. WE ARE GRATEFUL REF A WHICH HELPS US BEGIN COME GRIPS
WITH LAW 647 POSSIBILITIES RE HAYES CASE. WE CONCUR THAT
WE SHOULD MOVE AHEAD QUICKLY SINCE ECEVIT OFFER (REF D) IS AS
FIRM AS WE LIKELY GET. THIS IS ESPECIALLY TRUE NOW THAT
FRAGILITY OF ECEVIT COALITION GOVERNMENT HAS BEEN DEMONSTRATED
AGAIN BY LOSS OF KEY VOTE ON AMNESTY BILL (ANKARA 3724). IN
SUM, WE WISH TO BE IN POSITION ASAP TO FOLLOW UP ON ECEVIT
PROPOSAL AND NOT MISS CHANCE AS RESULT OF HIS BEING UNSEATED
BEFORE WE HAVE ACTED.

2. TO HAVE A CHANCE OF SUCCESS IN THIS, WE WILL NEED TO BE
MORE FORTHCOMING THAN SUGGESTED IN REF A. IN SEEKING TO
DEVISE A WAY TO DO THIS, WE CALL ATTENTION TO TWO FACTORS
WHICH WE BELIEVE RELEVANT, BOTH OF WHICH ARE TOUCHED ON
IN REF B (WHICH APPARENTLY CROSSED WITH REF A). ALACAKAPTAN'S
VIEWS (REF B) ON BOTH HAVE BEEN ECHOED BY PROFESSOR
FARUK EREM IN SEPARATE DISCUSSION RE ANTAKYA THREE WHICH
BEING REPORTED SEPTEL:
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(A) NO PROPOSITION WHICH MAKE CLEAR (AS SUGGESTED
PARA 3-A REF A) THAT HAYES CANNOT SERVE HIS SENTENCE IN US
IN JAIL IS GOING TO BE ACCEPTABLE TO GOT. AT SAME TIME,
LOCAL OFFICIALS ARE LIKELY BE PREPARED TO BE FLEXIBLE IN KIND
OF UNDERTAKING THEY WILL ACCEPT FROM US. FURTHER, THEY
ARE NOT LIKELY TO CHECK UP ON SUBSEQUENT US PERFORMANCE.

(B) GOT JUSTICE MINISTRY OFFICIALS (WHO WOULD PROVIDE
ADVICE TO PM) ARE NOT TRULY INTERESTED IN RECIPROCITY. (ON
THIS POINT, A FIG LEAF WOULD PROBABLY SUFFICE.)

3. IT ALSO SEEMS TO US THAT LONG SENTENCE CASES SUCH AS
THOSE OF HAYES AND THE ANTAKYA THREE ARE POLITICAL AND
DIPLOMATIC AS WELL AS LEGAL PROBLEMS WHICH MUST BE VIEWED
AGAINST THE BACKGROUND OF PUBLIC OPINION IN BOTH
COUNTRIES AND RELATIONS BETWEEN THEM; CONSEQUENTLY, NECESSARY
TAKE ACCOUNT ELEMENTS OF ALL THESE IN OUR APPROACH. ALONG THESE
LINES, OUR VIEW OF HOW WE CAN MOVE MOST EXPEDITIOUSLY IS
SET FORTH BELOW.

4. THE DEPARTMENT SHOULD PROMPTLY DEVELOP A DRAFT OF THE
"FRIENDLY NOTE" SUGGESTED BY ECEVIT IN REF D, PARA 2, ON
WHICH THE EMBASSY CAN COMMENT. IN OUR VIEW, THIS
DRAFT SHOULD PROVIDE FOR THE EMBASSY'S UNDERTAKING TO
ACCEPT CUSTODY OF HAYES FROM THE GOT AND TO DELIVER HIM
TO US FEDERAL AUTHORITIES FOR THE PURPOSE OF SERVING HIS
SENTENCE. AS TO RECIPROCITY, THE DEPARTMENT OF STATE,
UPON REQUEST OF THE GOT, WOULD UNDERTAKE TO INTERVENE
WITH US FEDERAL OR STATE AUTHORITIES IN APPROPRIATE CASES
TO SEEK RETURN OF TURKISH PRISONERS TO TURKEY.

5. IT MAY BE TRUE THAT RETURN OF ANY TURKISH PRISONERS
WOULD HAVE TO BE VOLUNTARY, THAT WE MIGHT CONSIDER SOME
CASES "INAPPROPRIATE," AND THAT RETENTION OF HAYES BY US
AUTHORITIES COULD BE UPSET BY US JUDICIAL PROCESSES, BUT
WE DO NOT HAVE TO RUB THE GOT'S NOSE IN THESE FACTS.
THE CHANCES ARE THEY ARE PREFECTLY AWARE OF THEM BUT
THEY DO HAVE THEIR LAWS TO COMPLY WITH AND THEIR FACES
TO SAVE.

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6. PRESUMABLY, IF CONSULTED IN ADVANCE, HAYES, FAMILY,
AND ATTORNEYS WOULD BE PREPARED TO WAIT A DECENT INTERVAL
AFTER ARRIVAL IN THE US BEFORE SEEKING RELEASE BY JUDICIAL
MEANS. THIS, ADMITTEDLY, LEAVES UNRESOLVED THE QUESTION
OF ON WHAT BASIS US AUTHORITIES (STATE OR FEDERAL) COULD
INITIALLY ACCEPT HAYES AS A DETAINEE, BUT, WITH HIS COOPERATION
AND THAT OF HIS ATTORNEYS, IT DOES NOT SEEM BEYOND THE
REALM OF POSSIBILITY TO WORK SOMETHING OUT.

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6. ARRANGEMENT FOR THE RELEASE OF HAYES ON BASIS OF DEPARTMENT UNDERTAKINGS (REF A, PARA 3-B) COULD PROBABLY BE INFORMAL, E.G., "FRIENDLY LETTER," BUT IT WILL ALMOST CERTAINLY DRAW A FEW NEWS STORIES HERE AND INUS, AND IT WOULD CERTAINLY HAVE TO BE ON PAPER. HENCE, OUR REQUEST THAT DEPARTMENT ATTEMPT DRAFT WITHIN PARAMETERS OUTLINED ABOVE.

7. AS HAS BEEN EVIDENT IN OUR REPORTING FOR SOME TIME, WE BELIEVE THAT BEST FINAL HOPE ON BEHALF HAYES, AND QUITE LIKELY, SUBSEQUENTLY ANTAKYA PRISONERS ALSO, LIES IN IMPROVISING UNDER LAW 647. THIS IS ONLY ROUTE FOR WHICH THERE IS A PRECEDENT (DANISH BOY TURNED OVER IN 1971.) EMBASSY HAS NOW GONE ABOUT AS FAR AS IT CAN IN TRYING TO DEVISE WAY UTILIZE 647 POSSIBILITY. IF A WAY CANNOT BE FOUND TO MAKE IT WORK, PROSPECTS ARE GOOD HAYES AND ANTAKYA THREE WILL HAVE TO SERVE OUT REMAINING YEARS SENTENCES (WHICH WE CALCULATE, AFTER CURRENT ANMESTY, AS 11 PLUS AND 14 PLUS RESPECTIVELY). AND DEPARTMENT AND EMBASSY WILL SIMPLY HAVE TO EXPLAIN WHY TO FAMILIES, PRESS, AND INTERESTED CONGRESSMEN.

8. RECOMMEND THAT DEPARTMENT OFFICIALS CONCERNED THIS PROBLEM CONSULT WITH AMBASSADOR MACOMBER IN WASHINGTON NEXT WEEK BUT THAT WORK ON DRAFT LETTER BEGIN IMMEDIATELY.
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To: STATE
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